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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,219	12/16/2004	David J. Alessio	SP-1598.2 US	5728

20875 7590 08/30/2007  
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EXAMINER
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LEE, GUNYOUNG T

ART UNIT	PAPER NUMBER
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2875

MAIL DATE	DELIVERY MODE
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08/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/518,219	Applicant(s) ALESSIO, DAVID J.	
	Examiner Gunyoung T. Lee	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/14/2007 has been entered.

### ***Response to Amendment***

2. Applicant's amendment filed on 06/14/2007 has been entered:
- Claims 1, 10, 17 and 19-20 have been amended;
  - New claims 21-27 have been added;
  - Claims 1-27 are pending in this application, with claims 1, 10, 17 and 19 being independent.

### ***Claim Rejections - 35 USC § 112***

3. Claims 17 and 23-34 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.
4. Claims 17 and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: "a headband strap" on line 15 of claim 17 and on line 1 of claims 23-24.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

6. Claims 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Furst et al. (US 6,152,590).

7. Furst et al. disclose a lighting device having:

- A front housing (23) having a front side (Fig. 1) and a back side (consider a side attached to a vehicle, Fig. 2);
- A plurality of light emitting diodes (9) located on the front housing (23), the plurality of light emitting diodes (9) emitting light from the front side of the front housing (23);
- A plurality of lenses (7) arranged in front of the plurality of light emitting diodes (9);
- A rear housing (consider the vehicle) coupled (Fig. 2) to the back side of the front housing (23); and
- The vehicle (rear housing) has a battery compartment comprising at least one battery.

***Claim Rejections - 35 USC § 103***

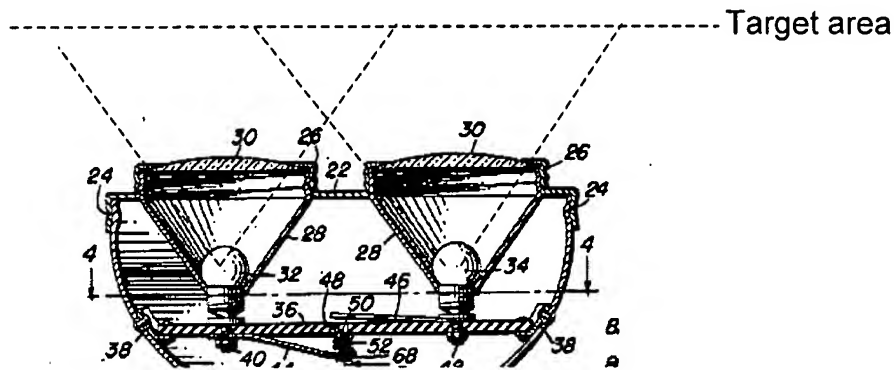
8. Claims 1-3, 5-10, 12-16 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yandt (US 2,566,280) in view of Lebens et al. (US 6,095,661).

9. Yandt discloses a flashlight having:

- A housing (20), a first lighting element (32) located on the housing (20);

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- A second lighting element (34) located on the housing (20) and spaced (Fig. 1) from the first light emitting element (32);
- First and second magnifier lenses (30) arranged (Fig. 1) in light paths of first (32) and second (34) light emitting elements respectively;
- A first light beam of the first lighting element (32) and a second light beam of the second lighting element (34) are overlapped on a target area (as shown in the following picture);



- A support member (22) for supporting the first and second lenses (30) relative to the first (32) and second (34) lighting elements;
- A rear housing (12) coupled to a backside of the housing (20) and having (Figs. 1 and 2) a battery compartment comprising at least one battery (14) for the lighting elements (32, 34);
- The support member (22) covers the housing (20) and comprises a non-reflective inner wall (consider a portion contacting dents, 24);
- The first and second lenses (30) comprise plano convex lenses (Fig. 1) with convex surfaces;

- The first and second lenses (30) are arranged substantially orthogonal to the light path of the corresponding first (32) and second (34) lighting elements;
- A circuit board (36) fixed to the housing (20) and connected to the first (32) and second (34) lighting elements (col. 2, lines 38-50); and
- The housing (20) includes a front side and the back side (Fig. 1) and the first (32) and second (34) lighting elements emit light from the front side of the housing.

10. Yandt does not expressly disclose that the lighting elements are light emitting diodes (LEDs). Lebens et al. disclose a flashlight having light emitting diodes (150) as lighting elements. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LEDs as lighting elements as shown in Lebens et al. for the flashlight of Yandt, for the purpose of extending the service time of the flashlight having a limited power source, such as a battery, by using the low power consumption and long lifetime LED lighting elements.

11. Claims 1, 3-4, 10-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (US 2,138,723) in view of Lebens et al. (US 6,095,661).

12. Bell discloses a portable lighting device having:

- A housing (22), a first lighting element (38) located on the housing (22);
- A second lighting element (40) located on the housing (22) and spaced (Fig. 1) from the first light emitting element (38);
- First (44) and second (46) magnifier lenses having convex surfaces (Fig. 1) and arranged (Fig. 1) in light paths of first (38) and second (40) light emitting elements respectively;

- A first light beam of the first lighting element (38) and a second light beam of the second lighting element (40) are overlapped on a target area;
- A support member (42) for supporting the first (44) and second (46) lenses relative to the first (38) and second (40) lighting elements;
- A rear housing (10) coupled to a backside of the housing (22) and having a battery compartment (Fig. 1);
- The support member (42) includes a cover (68) comprising a substantially transparent material (col. 2, lines 34-38); and
- A third light emitting element (Fig. 3) and a switch (64) on the housing (22).

13. Bell does not expressly disclose that the lighting elements are light emitting diodes (LEDs). Lebens et al. disclose a flashlight having light emitting diodes (LEDs) (150) as lighting elements and a (control) switch unit (130, 140), wherein the LED lighting elements (150) provides different colors (col. 4, lines 30-35) and the switch unit (130, 140) selectively applies power to the LEDs (15) at different modes (col. 1, lines 61-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED lighting elements and control switch unit as shown in Lebens et al. for the portable lighting device of Bell, for the purpose of extending the service time of the flashlight having a limited power source, such as a battery, by using the low power consumption and long lifetime LED lighting elements, and reducing the size and weight of the portable lighting device equipped with multi-operation modes by using the control switching unit.

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14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yandt (US 2,566,280) in view of Lebens et al. (US 6,095,661) and Fields (US 4,797,793).

15. In regard to claim 17, Yandt discloses the invention substantially as claimed except that the lighting elements are not light emitting diodes (LEDs) and a headband strap.

16. In regard to the LED lighting elements, Lebens et al. disclose a flashlight having light emitting diodes (150) as lighting elements. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LEDs as lighting elements as shown in Lebens et al. for the flashlight of Yandt, for the purpose of extending the service time of the flashlight having a limited power source, such as a battery, by using the low power consumption and long lifetime LED lighting elements.

17. In regard to the headband strap, Fields discloses a flashlight assembly having a headband strap (10) as a portable unit for a lighting device (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the headband strap as shown in Fields for the flashlight of Yandt, for the purpose of providing a hand free holding mechanism for the flashlight, which may increase the safety/performance of the user.

18. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yandt (US 2,566,280) and Lebens et al. (US 6,095,661), as applied to claims 1 and 10 above, and further in view of Fields (US 4,797,793).

19. In regard to claims 23-24, Yandt and Lebens et al. disclose the invention substantially as claimed except that the flashlight does not include a headband strap.



20. Fields discloses a flashlight assembly having a headband strap (10) as a portable unit for a lighting device (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the headband strap as shown in Fields for the flashlight of Yandt modified by Lebens et al., for the purpose of providing a hand free holding mechanism for the flashlight, which may increase the safety/performance of the user.

21. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yandt (US 2,566,280), Lebens et al. (US 6,095,661) and Fields (US 4,797,793), as applied to claim 17 above, and further in view of Nygard (US 1,986,281).

22. In regard to claim 25, Yandt, Lebens et al. and Fields disclose the invention substantially as claimed except that the housing is not pivotally connected to the rear housing. Nygard discloses a hand lamp having a housing (18) pivotally connected to a rear housing (10) (col. 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pivot joint as shown in Nygard for the flashlight of Yandt modified by Lebens et al. and Fields, for the purpose of providing an illumination into various directions/angles by adjusting the (light) housing without moving the base/rear housing, which may increase the safety of the user.

23. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yandt (US 2,566,280) and Lebens et al. (US 6,095,661), as applied to claim 10 above, and further in view of Nygard (US 1,986,281).

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24. In regard to claim 26, Yandt and Lebens et al. disclose the invention substantially as claimed except that the housing is not pivotally connected to the rear housing.

Nygard discloses a hand lamp having a housing (18) pivotally connected to a rear housing (10) (col. 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pivot joint as shown in Nygard for the flashlight of Yandt modified by Lebens et al., for the purpose of providing an illumination into various directions/angles by adjusting the (light) housing without moving the base/rear housing, which may increase the safety of the user.

25. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furst et al. (US 6,152,590), as applied to claim 19 above, and further in view of Whitehead (US 4,740,066).

26. In regard to claim 27, Furst et al. disclose the invention substantially as claimed except that the rear view mirror (front housing) is not pivotally connected to the vehicle (rear housing). Whitehead discloses a rear view mirror (Fig. 3, 26) pivotally connected to a vehicle (10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pivotal joint as shown in Whitehead for the light device of Furst et al., for the purpose of prevent a damage on the lighting device from a front impact by allowing a relative movement.

### ***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schenk (US 2,101,479), Moore et al. (US 3,517,185), Chou (US


4,740,872), Roney (US 5,101,326), Fustos (US 5,224,772), and Becker (US 5,408,393) show lighting devices having a plurality of lighting elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached between 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached at (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL  
8/27/2007



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